

September 17, 2012

Mr. Arthur Palmer
AP Enterprises, LLC
28 Teal Drive
Wakefield, RI 02879

CERTIFIED MAIL

RE Beneficial Use Determination Approval
Former Portsmouth Landfill Plat 20 Lots 1,2,13 and Plat 25- Lot 2
Portsmouth, Rhode Island

Dear Mr. Palmer:

Enclosed please find the Renewal of the Beneficial Use Determination Approval (BUDA) for the above listed property. Please review the stipulations of this BUD thoroughly to ensure your compliance with the requirements.

The only new condition is an amendment to condition 16 requiring that the Department shall be given a key to access the site when APE agents are not available to provide access.

If you have any questions or comments regarding this letter, please contact me by telephone at (401) 222-2797 ext. 7112 or by e-mail at mark.dennen@dem.ri.gov.

Sincerely,

Mark M. Dennen
Principal Environmental Scientist
Office of Waste Management

cc: Laurie Grandchamp, Supervising Engineer OWM - Solid Waste program

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

In the matter of the application for
Beneficial Use Determination Approval at:

Office of Waste Management

**Former Portsmouth Landfill
Plat 20 Lots 1,2,13 and Plat 25- Lot 2
Portsmouth, Rhode Island**

Beneficial Use Determination Renewal

In the above entitled matter wherein AP Enterprises LLC as owner of the former Portsmouth Landfill located north of Park Avenue in Portsmouth, was granted a Beneficial Use Determination Approval on September 20, 2012 (later modified on March 11, 2011) by the Rhode Island Department of Environmental Management (RIDEM) in accordance with the Guidelines on Beneficial Use Determinations (“BUDs”) for Source Segregated Solid Waste. On July 16, 2012, APE submitted a request to renew the BUDA.

As of this date, the grading and shaping activities, as well as placement of cover material has been in compliance with the BUDA. However, less than half of the site has been covered. A significant factor in this delay, as outlined in the renewal application, is that truck traffic is restricted over the Sakonnet River Bridge due to ongoing repairs that were originally anticipated to be done early in 2012 but is still ongoing.

Upon consideration thereof, the Department of Environmental Management’s Office of Waste Management (OWM) renews the Beneficial Use Determination Approval (BUDA) provided that:

1. All work must be performed in accordance with all applicable regulations and the Department approved Remedial Action Work as modified by the Response to Comments dated July 8, 2010- Portsmouth Landfill, submitted by VHB received 8/11/2010 and must be consistent with Section 11.00 (Remedial Action) of the Remediation Regulations.
2. Grading and shaping material shall consist of soils meeting the method 1 RIDEM Industrial Commercial Standards and shall be managed in accordance with the Remedial Action Work Plan . These soils will be sampled at a frequency of at least once every 2,500 cubic yards as detailed in your response to comments referenced above. These will be covered with a landfill cap as described below:
3. AP Enterprises will construct a landfill cap within the defined limit of waste to close the landfill in accordance with the Solid Waste Regulations and the Remediation

Regulations. The source of the cover material will be evaluated to demonstrate that it does not contain contaminants at concentrations above Method 1 Residential Criteria.

All clean fill imported to the site shall be sampled prior to delivery and placement. Clean fill and loam shall be sampled for arsenic at a minimum frequency of one sample per 1000 cubic yards. One-quarter of the total number of compliance samples of clean fill and loam shall be sampled for total petroleum hydrocarbons (TPH), volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), and 13 priority pollutant metals. All clean fill utilized onsite shall be compliant with the Department's Method 1 Residential Direct Exposure Criteria (RDEC) pursuant to the Remediation Regulations. The Closure Report shall include all original laboratory analytical sampling results from the fill demonstrating compliance with the RDEC and either a statement from the facility that provides the clean fill attesting to the materials origin and suitability or written certification by an Environmental Professional that the fill is not jurisdictional and is suitable for the cap.

4. Placement of the final landfill cap shall commence not later than 90 days after final receipt of the grading and shaping material and finish within one year.
5. Results of all environmental sampling shall be sent to Mark M. Dennen, Office of Waste Management (OWM), 235 Promenade Street, Providence, RI 02908.
6. The OWM shall be immediately notified of any Site or operation condition that results in non-compliance with this BUDA.
7. Any interruptions of the remedial action shall be reported to Mark M. Dennen at the Office of Waste Management by telephone within one (1) working day and in writing within seven (7) days of occurrence.
8. All waste derived from the implementation of the Remedial Action Work Plan / Closure Plan shall either be managed in accordance with the approved Beneficial Use Determination Variance Application, or disposed of in accordance with the Department's Rules and Regulations for Hazardous Waste Management, and the Solid Waste Regulations. In the event waste is disposed of off-site, documentation of proper disposal shall be provided to the Office of Waste Management.
9. This BUDA renewal shall expire one year from the date of issuance and may be renewed yearly.
10. AP Enterprises shall submit quarterly updates to the Department with the following information:
 - Name, address, and quantity received of each source of material
 - An explanation and photographs of construction activities and sedimentation control measures that have been done at the site
 - Sampling that has been done on material received

- An explanation of any complaints that have been received
 - An updated schedule of timelines to completion of project
11. No hazardous waste shall be accepted from any off-site sources for treatment, storage or disposal at the Site.
 12. The Department reserves the right to split samples of any material received and A.P. Enterprises shall be obligated to reimburse the Department for any costs incurred.
 13. This or any previous approval shall in no way be construed to override or in any way modify other local, state or federal regulatory requirements. We would emphasize this includes ordinances of the Town of Portsmouth and regulations of the Coastal Resource Management Council.
 14. A.P. Enterprises shall provide the DEM, its authorized officers, employees, representatives and all other persons under DEM oversight, an irrevocable right of access to the Site at all reasonable times for the purposes of performing inspections, investigations, and testing to accommodate the DEM's Oversight Plan. The DEM or other authorized designated personnel shall have the right to access the Site at all reasonable times for the above-stated purposes without prior notice. Consistent with this right, the Department shall be given a key to provide access to the site when APE agents are not onsite. Refusal to permit reasonable inspections, tests and investigations shall constitute valid grounds for revocation of this BUD approval; and/or issuance of a Notice of Violations with Administrative Penalty.
 15. An Institutional Control in the form of an Environmental Land Use Restriction (ELUR) for the Site will be recorded in the Town of Portsmouth Land Evidence Records at the time of this projects completion and will specify all the site conditions, restrictions and emergency provisions in order to meet the appropriate Remedial Objectives as defined in the Remediation Regulations and Solid Waste Regulations. Be advised that, because the ELUR is part of the remedy, the Department will require (as will be stated in the ELUR) that the property owner submit an annual inspection report by a qualified environmental professional. This report will be subject to review by the Department. A recorded copy of the Department approved ELUR must be forwarded back to the Office of Waste Management (OWM) prior to issuance of the Interim Letter of Compliance.
 16. As per the BUD Amendment of March 11, 2011, the AP Enterprises shall only accept soils with greater than 7 mg/kg under the following conditions:
 - ◆ This approval is only for soils with naturally occurring levels of arsenic and shall not include media that has been contaminated from a release as defined in the Department's *Remediation Regulations*.
 - ◆ As described in your request of December 2010, all sources will have at least 10

samples collected during the assessment. No sample shall exceed 40 mg/kg of arsenic and the average arsenic level shall not exceed 20 mg/kg. The soils shall contain only naturally occurring arsenic and will be identified as such by the absence of any other contaminants above Residential Direct Exposure standards (organic or inorganic) within the sample.

- ◆ As described in the attached “Elevated, Naturally Occurring Arsenic Soil Handling Plan”, of 3/1/2011, A.P. Enterprises shall execute the following:
 - A) Within 14 days of receiving elevated arsenic soils, the soils will be covered with at least 6 inches of soil cover with arsenic levels below 7 mg/kg; or
 - B) If the soils are not covered within 14 days, APE shall post financial assurance in the amount of two (2) dollars for each ton accepted in a mechanism as described in Solid Waste Regulation 1.5.10. Said assurance shall be required to ensure funds are available to complete the work in a timely manner.

- ◆ Regardless of any reclassification of the aquifer below the landfill in the future, in accordance with the Groundwater Regulations and the Department’s Non-Degradation Policy, any soils accepted must be compatible with the area’s GA classification.

- ◆ Soils approved under this BUD amendment shall only be delivered to the site between 7:30 am and 3:30 pm, Monday through Friday.

- ◆ Dust and odor control measures (i.e. wetting down or covering piles) shall be implemented in order to prevent any dust or odors from migrating beyond the property boundary.

This BUDA shall remain in full force and effect provided said Remedial Action Work Plan / Closure Plan is implemented in a manner satisfactory to the Department of Environmental Management. Failure to comply with all points stipulated in this BUDA shall result in the issuance of a Notice of Violation and against the responsible parties.

This BUDA shall be subject to modification or revocation in accordance with the law.

Entered as the Approval of the Department of Environmental Management this 17th day of September, 2012.

By:

Leo Hellested, P.E.
Chief, Office of Waste Management
Department of Environmental Management